

IN THE CIRCUIT COURT  
THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS

**FILED**

DEC 21 2018

CLERK OF CIRCUIT COURT #11  
THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS

JOHN BERRIEN,

Plaintiff,

vs.

SWIFT TRANSPORTATION CO OF  
ARIZONA, LLC, and JERRY ADAMS, DB  
HOLDING CORPORATION, SCHENKER, INC.,  
SCHENKER, GLOBAL MANAGEMENT &  
TECHNOLOGY CENTER AMERICAS, INC.,  
SCHENKER AMERICA, INC., PROCTER &  
GAMBLE DISTRIBUTING, LLC and THE  
PROCTER & GAMBLE MANUFACTURING  
COMPANY,

Defendants.

Case No.: 18-L-1659

**FIRST AMENDED COMPLAINT**

**Count I**

COMES NOW the plaintiff John Berrien by and through his attorneys Cook, Bartholomew, Shevlin & Cook, LLP and Gregory L. Shevlin and for Count I of his first amended complaint against defendant Swift Transportation Co of Arizona, LLC; (hereinafter Swift Transportation), states as follows:

1. On or about December 27, 2016 plaintiff John Berrien was parked in his 2015 freightliner at Schenker Logistics located in Edwardsville, Madison County Illinois.
2. At said time and place, Defendant Jerry Adams was operating a tractor trailer at or near the same location of the plaintiff and was attempting to make a left turn when he struck the plaintiff.

3. At said time and place, Swift Transportation was in the business of employing truck drivers and transporting goods throughout the state of Illinois and elsewhere.

4. That all times herein mentioned, Jerry Adams was the agent, servant, or employee of Swift Transportation and/or DB US Holding Corporation and/or Schenker, Inc. and/or Schenker Global Management & Technology Center Americas, Inc. and/or Schenker Americas, Inc. and/or Procter & Gamble Distributing, LLC and/or The Procter & Gamble Manufacturing Company.

5. That at said time and place Swift Transportation by and through its agents, servants or employees committed one or more of the following negligent acts or omissions:

- a. Failed to yield to plaintiff's vehicle;
- b. Failed to make a wide enough left turn to avoid striking the plaintiffs vehicle;
- c. Drove at a speed greater than reasonable under the circumstances;
- d. Failed to reduce his speed to avoid an accident;
- e. Failed to adequately train Jerry Adams;
- f. Failed to conduct an adequate investigation prior to hiring Jerry Adams.

6. That as a direct and proximate result of one or more of the foregoing negligent acts or omissions by and through their agents, servants or employees, plaintiff was caused to sustain severe and permanently disabling and disfiguring injuries, more specifically to wit: plaintiff suffered injuries to his neck, back, leg and foot and body as a whole; that he sustained great pain and mental anguish; plaintiff has lost and in the future will continue to lose, large sums of money due to his inability to pursue his normal gainful occupation; plaintiff has paid or become liable to pay and in the future will continue to pay large sums of money in procuring the necessary hospital and medical treatment; all to the damage of the plaintiff in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00).

WHEREFORE, plaintiff John Berrien, demands judgment against the defendant Swift Transportation Co of Arizona, LLC in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs herein expended.

**Count II**

COMES NOW the plaintiff John Berrien by and through his attorneys Cook, Bartholomew, Shevlin & Cook, LLP and Gregory L. Shevlin and for Count II of his first amended complaint against defendant Jerry Adams, states as follows:

1. On or about December 27, 2016 plaintiff John Berrien was parked in his 2015 freightliner at Schenker Logistics located in Edwardsville, Madison County Illinois.

2. At said time and place, Defendant Jerry Adams was operating a tractor trailer at or near the same location of the plaintiff and was attempting to make a left turn when he struck the plaintiff.

3. At said time and place, Swift Transportation was in the business of employing truck drivers and transporting goods throughout the state of Illinois and elsewhere.

4. That all times herein mentioned, Jerry Adams was the agent, servant, or employee of Swift Transportation and/or DB US Holding Corporation and/or Schenker, Inc. and/or Schenker Global Management & Technology Center Americas, Inc. and/or Schenker Americas, Inc. and/or Procter & Gamble Distributing, LLC and/or The Procter & Gamble Manufacturing Company.

5. That at said time and place Jerry Adams committed one or more of the following negligent acts or omissions:

- a. Failed to yield to plaintiff's vehicle;
- b. Failed to make a wide enough left turn to avoid striking the plaintiffs vehicle;
- c. Drove at a speed greater than reasonable under the circumstances;

d. Failed to reduce his speed to avoid an accident.

6. That as a direct and proximate result of one or more of the foregoing negligent acts or omissions by defendant Jerry Adams, plaintiff was caused to sustain severe and permanently disabling and disfiguring injuries, more specifically to wit: plaintiff suffered injuries to his neck, back, leg and foot and body as a whole; that he sustained great pain and mental anguish; plaintiff has lost and in the future will continue to lose, large sums of money due to his inability to pursue his normal gainful occupation; plaintiff has paid or become liable to pay and in the future will continue to pay large sums of money in procuring the necessary hospital and medical treatment; all to the damage of the plaintiff in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00).

WHEREFORE, plaintiff John Berrien, demands judgment against the defendant Jerry Adams in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs herein expended.

### Count III

COMES NOW the plaintiff John Berrien by and through his attorneys Cook, Bartholomew, Shevlin & Cook, LLP and Gregory L. Shevlin and for Count III of his first amended complaint against defendant DB US Holding Corporation d/b/a Schenker Logistics, (hereinafter DB US Holding), states as follows:

1-4. Plaintiff adopts and incorporates Paragraphs 1-4 of Count I.

5. DB US Holding owned and/or operated the facility where this incident occurred located in Edwardsville, Madison County, Illinois.

6. That at said time and place DB US Holding by and through its agents, servants or employees committed one or more of the following negligent acts or omissions:

a. Failed to yield to plaintiff's vehicle;

- b. Failed to make a wide enough left turn to avoid striking the plaintiffs vehicle;
- c. Drove at a speed greater than reasonable under the circumstances;
- d. Failed to reduce his speed to avoid an accident;
- e. Failed to adequately train Jerry Adams;
- f. Failed to conduct an adequate investigation prior to hiring Jerry Adams;
- g. Failed to properly control traffic at their facility.

7. That as a direct and proximate result of one or more of the foregoing negligent acts or omissions by and through their agents, servants or employees, plaintiff was caused to sustain severe and permanently disabling and disfiguring injuries, more specifically to wit: plaintiff suffered injuries to his neck, back, leg and foot and body as a whole; that he sustained great pain and mental anguish; plaintiff has lost and in the future will continue to lose, large sums of money due to his inability to pursue his normal gainful occupation; plaintiff has paid or become liable to pay and in the future will continue to pay large sums of money in procuring the necessary hospital and medical treatment; all to the damage of the plaintiff in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00).

WHEREFORE, plaintiff John Berrien, demands judgment against the defendant DB US Holding Corporation in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs herein expended.

**Count IV**

COMES NOW the plaintiff John Berrien by and through his attorneys Cook, Bartholomew, Shevlin & Cook, LLP and Gregory L. Shevlin and for Count IV of his first amended complaint against defendant Schenker, Inc., d/b/a Schenker Logistics states as follows:

- 1-4. Plaintiff adopts and incorporates Paragraphs 1-4 of Count I.

5. Schenker, Inc. owned and/or operated the facility where this incident occurred located in Edwardsville, Madison County, Illinois.

6. That at said time and place Schenker, Inc. by and through its agents, servants or employees committed one or more of the following negligent acts or omissions:

- a. Failed to yield to plaintiff's vehicle;
- b. Failed to make a wide enough left turn to avoid striking the plaintiff's vehicle;
- c. Drove at a speed greater than reasonable under the circumstances;
- d. Failed to reduce his speed to avoid an accident;
- e. Failed to adequately train Jerry Adams;
- f. Failed to conduct an adequate investigation prior to hiring Jerry Adams;
- g. Failed to properly control traffic at their facility.

7. That as a direct and proximate result of one or more of the foregoing negligent acts or omissions by and through their agents, servants or employees, plaintiff was caused to sustain severe and permanently disabling and disfiguring injuries, more specifically to wit: plaintiff suffered injuries to his neck, back, leg and foot and body as a whole; that he sustained great pain and mental anguish; plaintiff has lost and in the future will continue to lose, large sums of money due to his inability to pursue his normal gainful occupation; plaintiff has paid or become liable to pay and in the future will continue to pay large sums of money in procuring the necessary hospital and medical treatment; all to the damage of the plaintiff in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00).

WHEREFORE, plaintiff John Berrien, demands judgment against the defendant Schenker, Inc. in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs herein expended.

Count V

COMES NOW the plaintiff John Berrien by and through his attorneys Cook, Bartholomew, Shevlin & Cook, LLP and Gregory L. Shevlin and for Count V of his first amended complaint against defendant Schenker Global Management & Technology Center Americas, Inc., d/b/a Schenker Logistics states as follows:

1-4. Plaintiff adopts and incorporates Paragraphs 1-4 of Count I.

5. Schenker Global Management & Technology Center Americas, Inc. owned and/or operated the facility where this incident occurred located in Edwardsville, Madison County, Illinois.

6. That at said time and place Schenker Global Management & Technology Center Americas, Inc. by and through its agents, servants or employees committed one or more of the following negligent acts or omissions:

- a. Failed to yield to plaintiff's vehicle;
- b. Failed to make a wide enough left turn to avoid striking the plaintiffs vehicle;
- c. Drove at a speed greater than reasonable under the circumstances;
- d. Failed to reduce his speed to avoid an accident;
- e. Failed to adequately train Jerry Adams;
- f. Failed to conduct an adequate investigation prior to hiring Jerry Adams;
- g. Failed to properly control traffic at their facility.

7. That as a direct and proximate result of one or more of the foregoing negligent acts or omissions by and through their agents, servants or employees, plaintiff was caused to sustain severe and permanently disabling and disfiguring injuries, more specifically to wit: plaintiff suffered injuries to his neck, back, leg and foot and body as a whole; that he sustained great pain

and mental anguish; plaintiff has lost and in the future will continue to lose, large sums of money due to his inability to pursue his normal gainful occupation; plaintiff has paid or become liable to pay and in the future will continue to pay large sums of money in procuring the necessary hospital and medical treatment; all to the damage of the plaintiff in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00).

WHEREFORE, plaintiff John Berrien, demands judgment against the defendant Schenker Global Management & Technology Center Americas, Inc. in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs herein expended.

Count VI

COMES NOW the plaintiff John Berrien by and through his attorneys Cook, Bartholomew, Shevlin & Cook, LLP and Gregory L. Shevlin and for Count VI of his first amended complaint against defendant Schenker Americas, Inc., d/b/a Schenker Logistics states as follows:

1-4. Plaintiff adopts and incorporates Paragraphs 1-4 of Count I.

5. Schenker Americas, Inc. owned and/or operated the facility where this incident occurred located in Edwardsville, Madison County, Illinois.

6. That at said time and place Schenker Americas, Inc., by and through its agents, servants or employees committed one or more of the following negligent acts or omissions:

- a. Failed to yield to plaintiff's vehicle;
- b. Failed to make a wide enough left turn to avoid striking the plaintiffs vehicle;
- c. Drove at a speed greater than reasonable under the circumstances;
- d. Failed to reduce his speed to avoid an accident;
- e. Failed to adequately train Jerry Adams;
- f. Failed to conduct an adequate investigation prior to hiring Jerry Adams;
- g. Failed to properly control traffic at their facility.



7. That as a direct and proximate result of one or more of the foregoing negligent acts or omissions by and through their agents, servants or employees, plaintiff was caused to sustain severe and permanently disabling and disfiguring injuries, more specifically to wit: plaintiff suffered injuries to his neck, back, leg and foot and body as a whole; that he sustained great pain and mental anguish; plaintiff has lost and in the future will continue to lose, large sums of money due to his inability to pursue his normal gainful occupation; plaintiff has paid or become liable to pay and in the future will continue to pay large sums of money in procuring the necessary hospital and medical treatment; all to the damage of the plaintiff in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00).

WHEREFORE, plaintiff John Berrien, demands judgment against the defendant Schenker Americas, Inc. in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs herein expended.

**Count VII**

COMES NOW the plaintiff John Berrien by and through his attorneys Cook, Bartholomew, Shevlin & Cook, LLP and Gregory L. Shevlin and for Count VII of his first amended complaint against defendant Procter & Gamble Distributing, LLC, d/b/a Schenker Logistics states as follows:

1-4. Plaintiff adopts and incorporates Paragraphs 1-4 of Count I.

5. Procter & Gamble Distributing, LLC owned and/or operated the facility where this incident occurred located in Edwardsville, Madison County, Illinois.

6. That at said time and place Procter & Gamble Distributing, LLC by and through its agents, servants or employees committed one or more of the following negligent acts or omissions:

- a. Failed to yield to plaintiff's vehicle;
- b. Failed to make a wide enough left turn to avoid striking the plaintiffs vehicle;

- c. Drove at a speed greater than reasonable under the circumstances;
- d. Failed to reduce his speed to avoid an accident;
- e. Failed to adequately train Jerry Adams;
- f. Failed to conduct an adequate investigation prior to hiring Jerry Adams;
- g. Failed to properly control traffic at their facility.

7. That as a direct and proximate result of one or more of the foregoing negligent acts or omissions by and through their agents, servants or employees, plaintiff was caused to sustain severe and permanently disabling and disfiguring injuries, more specifically to wit: plaintiff suffered injuries to his neck, back, leg and foot and body as a whole; that he sustained great pain and mental anguish; plaintiff has lost and in the future will continue to lose, large sums of money due to his inability to pursue his normal gainful occupation; plaintiff has paid or become liable to pay and in the future will continue to pay large sums of money in procuring the necessary hospital and medical treatment; all to the damage of the plaintiff in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00).

WHEREFORE, plaintiff John Berrien, demands judgment against the defendant Procter & Gamble Distributing, LLC in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs herein expended.

#### Count VIII

COMES NOW the plaintiff John Berrien by and through his attorneys Cook, Bartholomew, Shevlin & Cook, LLP and Gregory L. Shevlin and for Count VII of his first amended complaint against defendant The Procter & Gamble Manufacturing Company, d/b/a Schenker Logistics states as follows:

- 1-4. Plaintiff adopts and incorporates Paragraphs 1-4 of Count I.

5. Procter & Gamble Manufacturing Company owned and/or operated the facility where this incident occurred located in Edwardsville, Madison County, Illinois.

6. That at said time and place Procter & Gamble Manufacturing Company by and through its agents, servants or employees committed one or more of the following negligent acts or omissions:

- a. Failed to yield to plaintiff's vehicle;
- b. Failed to make a wide enough left turn to avoid striking the plaintiffs vehicle;
- c. Drove at a speed greater than reasonable under the circumstances;
- d. Failed to reduce his speed to avoid an accident;
- e. Failed to adequately train Jerry Adams;
- f. Failed to conduct an adequate investigation prior to hiring Jerry Adams;
- g. Failed to properly control traffic at their facility.

7. That as a direct and proximate result of one or more of the foregoing negligent acts or omissions by and through their agents, servants or employees, plaintiff was caused to sustain severe and permanently disabling and disfiguring injuries, more specifically to wit: plaintiff suffered injuries to his neck, back, leg and foot and body as a whole; that he sustained great pain and mental anguish; plaintiff has lost and in the future will continue to lose, large sums of money due to his inability to pursue his normal gainful occupation; plaintiff has paid or become liable to pay and in the future will continue to pay large sums of money in procuring the necessary hospital and medical treatment; all to the damage of the plaintiff in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00).

WHEREFORE, plaintiff John Berrien, demands judgment against the defendant The Procter & Gamble Manufacturing Company in a sum in excess of FIFTY THOUSAND DOLLARS (\$50,000.00), plus costs herein expended.

/s/ Gregory L. Shevlin  
Gregory L. Shevlin, IL #6199414  
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*Attorney for Plaintiff John Berrien*

IN THE CIRCUIT COURT  
THIRD JUDICIAL CIRCUIT  
MADISON COUNTY, ILLINOIS

JOHN BERRIEN,

Plaintiff,

vs.

SWIFT TRANSPORTATION CO OF  
ARIZONA, LLC, and JERRY ADAMS, DB  
HOLDING CORPORATION, SCHENKER, INC.,  
SCHENKER, GLOBAL MANAGEMENT &  
TECHNOLOGY CENTER AMERICAS, INC.,  
SCHENKER AMERICA, INC., PROCTER &  
GAMBLE DISTRIBUTING, LLC and THE  
PROCTER & GAMBLE MANUFACTURING  
COMPANY,

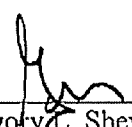
Defendants.

Case No.: 18-L-1659

**§1-109 CERTIFICATION**

Gregory L. Shevlin, attorney for plaintiff states as follows:

1. Under the penalties of perjury as provided by §1-109 of the Code of Civil Procedure and upon information and belief, the damages suffered by the plaintiff in the instant complaint attached hereto exceed the sum of \$50,000.00.



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